



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**JUN 22 2010**

Chris Whittington, Chair  
Louisiana Democratic Party  
701 Government Street  
Baton Rouge, LA 70802

RE: MUR 6217  
Commerce, Hope, Innovation & Progress  
PAC and Danna S. Lane, as treasurer;  
Haley's PAC and Henry Barbour, as  
treasurer; Chip Pickering; David Vitter for  
U.S. Senate and William Vanderbrook, as  
treasurer

Dear Mr. Whittington:

This is in reference to the complaint you filed with the Federal Election Commission on October 14, 2009, concerning the above-named respondents. Upon further review of the allegations contained in the complaint and information supplied the respondents, on June 15, 2010, the Commission found that there is no reason to believe David Vitter for U.S. Senate and William Vanderbrook, in his official capacity as treasurer, violated the Federal Election Campaign Act of 1971, as amended. The Commission also dismissed the complaint's allegations as to Commerce, Hope, Innovation & Progress PAC and Danna S. Lane, in her official capacity as treasurer; Haley's PAC and Henry Barbour, in his official capacity as treasurer; and Chip Pickering. Accordingly, the Commission closed its file in this matter. The Factual and Legal Analyses explaining the Commission's decision are enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

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MUR 6217  
Chris Whittington, Chair  
Louisiana Democratic Party  
Page 2

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact, April Sands, the attorney assigned to this matter, at (202) 694-1650

Sincerely,



Mark Allen  
Assistant General Counsel

Enclosures  
Factual and Legal Analyses

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**  
**MUR 6217**

**RESPONDENT:** Haley's PAC and Henry Barbour, in his  
official capacity as treasurer<sup>1</sup>

The complaint alleges violations of 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b) stemming from a \$5,000 contribution to David Vitter for U.S. Senate ("Vitter Committee") made on August 11, 2009 by Haley's PAC and its treasurer ("Haley's PAC"), a multi-candidate political action committee associated with Mississippi Governor Haley Barbour, that allegedly was reimbursed by Commerce, Hope, Innovation & Progress PAC and Danna S. Lane, in her official capacity as treasurer ("CHIP PAC"), a multi-candidate political action committee sponsored by former Congressman Chip Pickering. The complaint bases its allegations on the following: (1) in the same week that Haley's PAC contributed \$5,000 to the Vitter Committee, Haley's PAC received a contribution in an identical amount from CHIP PAC; (2) based on its receipt and contributions history, it was not common for Haley's PAC to make contributions; in fact, Haley's PAC's contribution to the Vitter Committee was only one of two it had made during 2009, and Haley's PAC disclosed only \$13,281.37 cash outstanding at the end of the reporting period in which it made the Vitter contribution; (3) the contribution to Haley's PAC constituted CHIP PAC's first contribution in 2009; (4) there are media-sensitive reasons Chip Pickering would want to hide the fact that his PAC was

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<sup>1</sup> Austin Barbour was the treasurer of Haley's PAC at the time the complaint was filed. The PAC filed an amended Statement of Organization on December 10, 2009, stating that its treasurer is now Henry Barbour.

1 providing support to Senator Vitter; and (5) Chip Pickering and Austin Barbour, nephew  
2 to Haley and then-treasurer of Haley's PAC, work together at a lobbying firm, and  
3 therefore had the opportunity to devise the alleged conduit scheme. Haley's PAC  
4 maintains that the complaint fails to establish reason to believe that the respondents made  
5 a contribution in the name of another or received a prohibited earmarked contribution,  
6 and, thus, urges the Commission to find no reason to believe the respondents violated the  
7 Act, and dismiss the complaint. For the reasons below, the Commission dismisses the  
8 complaint against Haley's PAC and Henry Barbour, in his official capacity as treasurer.

9 **II. DISCUSSION**

10 The complaint alleges that CHIP PAC may have made a contribution in the name  
11 of Haley's PAC to the Vitter Committee. The Federal Election Campaign Act of 1971,  
12 as amended (the "Act") provides that "[n]o person shall make a contribution in the name  
13 of another person or knowingly permit his name to be used to effect such a contribution  
14 and no person shall knowingly accept a contribution made by one person in the name of  
15 another person." 2 U.S.C. § 441f. This prohibition extends to persons who knowingly  
16 help or assist in making such contributions. See 11 C.F.R. § 110.4(b)(1)(iii).

17 On August 11, 2009, Haley's PAC made a \$5,000 contribution to the Vitter  
18 Committee. Four days later, CHIP PAC made a \$5,000 contribution to Haley's PAC.  
19 Haley's PAC disclosed both transactions on its FEC disclosure report filed with the  
20 Commission on September 20, 2009. Haley's PAC states that its \$5,000 contribution to  
21 the Vitter Committee "was made in connection with a fundraising event held for the  
22 Vitter Committee in Jackson, Mississippi on August 12, 2009." Haley's PAC Response

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1 at 2. The response also notes that the contribution at issue was, on its face, from a  
2 permissible source and in compliance with the Act's contribution limits, and suggests that  
3 the complaint is based solely on speculation. Haley's PAC Response at 5.

4 The complaint also alleges that Chip Pickering and Austin Barbour, the treasurer  
5 of Haley's PAC at the time of the contributions in issue, had the opportunity to devise the  
6 alleged conduit scheme as both worked together at the same lobbying firm. It cites to an  
7 Internet blog report stating that Austin Barbour reportedly responded "no comment" to  
8 the allegations. See Complaint at 3, footnote 6. In response, Heather Larrison, a political  
9 consultant, provided an affidavit stating that she did not have communications, and was  
10 not aware of any, between Senator Vitter or anyone else in the Vitter Committee  
11 concerning CHIP PAC's contribution to Haley's PAC or Haley's PAC contribution to the  
12 Vitter Committee. See Affidavit of Heather Larrison attached to Haley's PAC Response.  
13 The affidavit does not address whether there were any communications or discussions  
14 between Haley's PAC personnel and CHIP PAC personnel regarding the contributions at  
15 issue.

16 Although not alleged in the complaint, the Respondents also assert there were no  
17 violations of the earmarking regulation at 11 C.F.R. § 110.6, which provides that all  
18 contributions that a person earmarks or otherwise directs to a candidate through an  
19 intermediary or conduit are considered contributions from the person to the candidate.  
20 The response provides copies of the checks, which are unencumbered by any written  
21 designation or instruction, and an affidavit stating that the contribution checks were not  
22 accompanied by any written encumbrance concerning the contribution. In a recent

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1 enforcement matter, the Commission has determined that funds are considered earmarked  
2 only when there is clear documented evidence of acts by donors that resulted in their  
3 funds being used by the recipient committees for expenditures on behalf of a particular  
4 campaign. MUR 5732 (Matt Brown), Factual & Legal Analysis at 6.

5       Given that the contribution from CHIP PAC to Haley's PAC, and from Haley's  
6 PAC to the Vitter Committee, were each disclosed and the contributions did not result in  
7 the Vitter Committee receiving an excessive or prohibited contribution, it would not be  
8 an efficient use of the Commission's resources to pursue this matter further given the  
9 relatively low amount at issue. Accordingly, the Commission exercises its prosecutorial  
10 discretion and dismisses the complaint as to Haley's PAC and Henry Barbour, in his  
11 official capacity as treasurer. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR 6217**

**RESPONDENTS:**

David Vitter for U.S. Senate and William Vanderbrook,  
in his official capacity as treasurer

The complaint alleges violations of 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b) stemming from a \$5,000 contribution to David Vitter for U.S. Senate ("Vitter Committee") made on August 11, 2009 by Haley's PAC and its treasurer ("Haley's PAC"), a multi-candidate political action committee associated with Mississippi Governor Haley Barbour, that allegedly was reimbursed by Commerce, Hope, Innovation & Progress PAC and Danna S. Lane, in her official capacity as treasurer ("CHIP PAC"), a multi-candidate political action committee sponsored by former Congressman Chip Pickering. The complaint bases its allegations on the following: (1) in the same week that Haley's PAC contributed \$5,000 to the Vitter Committee, Haley's PAC received a contribution in an identical amount from CHIP PAC; (2) based on its receipt and contributions history, it was not common for Haley's PAC to make contributions; in fact, Haley's PAC's contribution to the Vitter Committee was only one of two it had made during 2009, and Haley's PAC disclosed only \$13,281.37 cash outstanding at the end of the reporting period in which it made the Vitter contribution; (3) the contribution to Haley's PAC constituted CHIP PAC's first contribution in 2009; (4) there are media-sensitive reasons Chip Pickering would want to hide the fact that his PAC was providing support to Senator Vitter; and (5) Chip Pickering and Austin Barbour, nephew to Haley and then-treasurer of Haley's PAC, work together at a lobbying firm, and therefore had the opportunity to devise the alleged conduit scheme.

1           With respect to the Vitter Committee, the response points out that “[e]ven if the conjecture  
2   and innuendo in the complaint were at some point proven to be correct, there are no facts asserted,  
3   even buried among the baseless speculation, which would prove that Vitter for Senate knowingly  
4   accepted an impermissible contribution.” *See* Vitter Committee Response at 2. The complaint  
5   alleges no facts concerning the Vitter Committee other than it accepted a contribution from  
6   Haley’s PAC, and no other information is available indicating a possible violation. The  
7   contribution check was facially compliant with the Act and the Commission’s regulations, and is in  
8   fact neither excessive nor from an impermissible source. Accordingly, the Commission finds no  
9   reason to believe that David Vitter for U.S. Senate and William Vanderbrook, in his official  
10   capacity as treasurer, violated the Act or the Commission’s regulations.

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR 6217**

**RESPONDENTS:**

Commerce, Hope, Innovation & Progress PAC  
and Danna S. Lane, in her official capacity as  
treasurer

Chip Pickering

**I. INTRODUCTION**

The complaint alleges violations of 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b) stemming from a \$5,000 contribution to David Vitter for U.S. Senate ("Vitter Committee") made on August 11, 2009 by Haley's PAC and its treasurer ("Haley's PAC"), a multi-candidate political action committee associated with Mississippi Governor Haley Barbour, that allegedly was reimbursed by Commerce, Hope, Innovation & Progress PAC and Danna S. Lane, in her official capacity as treasurer ("CHIP PAC"), a multi-candidate political action committee sponsored by former Congressman Chip Pickering. The complaint bases its allegations on the following: (1) in the same week that Haley's PAC contributed \$5,000 to the Vitter Committee, Haley's PAC received a contribution in an identical amount from CHIP PAC; (2) based on its receipt and contributions history, it was not common for Haley's PAC to make contributions; in fact, Haley's PAC's contribution to the Vitter Committee was only one of two it had made during 2009, and Haley's PAC disclosed only \$13,281.37 cash outstanding at the end of the reporting period in which it made the Vitter contribution; (3) the contribution to Haley's PAC constituted CHIP PAC's first contribution in 2009; (4) there are media-sensitive reasons Chip Pickering would want to hide the fact that his PAC was providing support to Senator Vitter; and (5) Chip Pickering and

1 Austin Barbour, nephew to Haley and then-treasurer of Haley's PAC, work together at a lobbying  
2 firm, and therefore had the opportunity to devise the alleged conduit scheme. CHIP PAC and Chip  
3 Pickering submitted a joint response ("Joint Response") that maintains that the complaint fails to  
4 establish reason to believe that the respondents made a contribution in the name of another or  
5 received a prohibited earmarked contribution, and, thus, urges the Commission to find no reason to  
6 believe the respondents violated the Act, and dismiss the complaint. For the reasons below, the  
7 Commission dismisses the complaint against Chip Pickering and Commerce, Hope, Innovation &  
8 Progress PAC and Danna S. Lane, in her official capacity as treasurer.

9 **II. DISCUSSION**

10 The complaint alleges that CHIP PAC may have made a contribution in the name of  
11 Haley's PAC to the Vitter Committee. The Federal Election Campaign Act of 1971, as amended  
12 (the "Act") provides that "[n]o person shall make a contribution in the name of another person or  
13 knowingly permit his name to be used to effect such a contribution and no person shall knowingly  
14 accept a contribution made by one person in the name of another person." 2 U.S.C. § 441f. This  
15 prohibition extends to persons who knowingly help or assist in making such contributions.  
16 See 11 C.F.R. § 110.4(b)(1)(iii).

17 On August 11, 2009, Haley's PAC made a \$5,000 contribution to the Vitter Committee.  
18 Four days later, CHIP PAC made a \$5,000 contribution to Haley's PAC. CHIP PAC disclosed its  
19 contribution to Haley's PAC on its 2009 Year-End Report filed January 26, 2010. The Joint  
20 Response states that Haley's PAC's \$5,000 contribution to the Vitter Committee "was made in  
21 connection with a fundraising event held for the Vitter Committee in Jackson, Mississippi on

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1 August 12, 2009.” Joint Response at 2. The response also notes that the contribution at issue was,  
2 on its face, from a permissible source and in compliance with the Act’s contribution limits, and  
3 suggests that the complaint is based solely on speculation. Joint Response at 5.

4 The complaint also alleges that Chip Pickering and Austin Barbour, the treasurer of  
5 Haley’s PAC at the time of the contributions in issue, had the opportunity to devise the alleged  
6 conduit scheme as both worked together at the same lobbying firm. It cites to an Internet blog  
7 report stating that Austin Barbour reportedly responded “no comment” to the allegations.  
8 See Complaint at 3, footnote 6. In response, CHIP PAC provided affidavits from Chip Pickering  
9 and its treasurer. Both affidavits state that the affiants had no communications or discussions, and  
10 were aware of none, between CHIP PAC personnel and Senator Vitter or Vitter Committee  
11 personnel regarding CHIP PAC’s contribution to Haley’s PAC. See Affidavits of Chip Pickering  
12 and Danna S. Lane, attached to the Joint Response. The affidavits do not address whether there  
13 were any communications or discussions between CHIP PAC personnel and Haley’s PAC  
14 personnel regarding the contributions at issue.

15 Although not alleged in the complaint, the Joint Response also asserts there were no  
16 violations of the earmarking regulation at 11 C.F.R. § 110.6, which provides that all contributions  
17 that a person earmarks or otherwise directs to a candidate through an intermediary or conduit are  
18 considered contributions from the person to the candidate. The response provides copies of the  
19 checks, which are unencumbered by any written designation or instruction, and an affidavit stating  
20 that the contribution checks were not accompanied by any written encumbrance concerning the  
21 contribution. In a recent enforcement matter, the Commission has determined that funds are

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1 considered earmarked only when there is clear documented evidence of acts by donors that  
2 resulted in their funds being used by the recipient committees for expenditures on behalf of a  
3 particular campaign. MUR 5732 (Matt Brown), Factual & Legal Analysis at 6.

4         Given that the contribution from CHIP PAC to Haley's PAC, and from Haley's PAC to the  
5 Vitter Committee, were each disclosed and the contributions did not result in the Vitter Committee  
6 receiving an excessive or prohibited contribution, it would not be an efficient use of the  
7 Commission's resources to pursue this matter further given the relatively low amount at issue.  
8 Accordingly, the Commission exercises its prosecutorial discretion and dismisses the complaint as  
9 to Chip Pickering and Commerce, Hope, Innovation & Progress PAC and Danna S. Lane, in her  
10 official capacity as treasurer. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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